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Notice of Erroneous Early Release of Patent Application Information on November 11, 2010

On November 11, 2010, the United States Patent and Trademark Office (USPTO), unintentionally and as a result of a processing error, made available to subscribers of patent application data the patent application publications that were not scheduled to publish under 35 U.S.C. 122(b) until November 18, 2010. The USPTO's subscription service allows a member of the public to obtain copies of all patents or application publications from the USPTO on the date of grant or publication for a fee. One subscriber who had access to the early-published data made these premature patent application publications available on its free Web service, known as Free Patents Online, on November 11, 2010 - one week prior to the scheduled publication date. At the USPTO's request, the subscriber removed access to the patent application publications dated November 18, 2010 on November 15, 2010 until November 18, 2010. While the premature release of application information on November 11, 2010, is not considered a publication of such applications under 35 U.S.C. 122(b), the USPTO acknowledges that there are potential international ramifications in certain very limited circumstances such as where an applicant whose application information was released early did not file a foreign application within the Paris Convention priority period but did file in a foreign country between November 11, 2010 and November 18, 2010.

The USPTO did not post the publications on its Web site until November 18, 2010, and it did not provide access to the public Patent Application Information Retrieval (PAIR) System based on the early release of the publication data. Moreover, the USPTO did not record in its records that a publication occurred until November 18, 2010. Copies of, and access to, any of the affected applications described in this document were not provided by the USPTO under 37 CFR 1.14 based on the error described in this document. The USPTO regrets this error and is instituting controls to prevent similar processing errors in the future.

Inquiries regarding this matter may be directed to Mark Polutta, Senior Legal Advisor, Office of Patent Legal Administration at (571) 272-7709 or via email addressed to mark.polutta@uspto.gov.